

**OPINION  
52-80**

August 20, 1952            (OPINION)

MOTOR VEHICLES

RE:   Tonnage Tax - Farmers

In your letter of August 18 you state that a resident of your county, while returning from harvesting outside the state, and driving a truck carrying a combine used in that operation, was ordered by the state highway patrolman to pay an additional license fee by reason of the fact that the truck was carrying the combine.

You state that there is some question in your mind whether chapter 246 of the 1951 Session Laws applies to this case, for the reason that the driver is a farmer in this state who was hauling his own equipment and as a matter of fact used the highway for this purpose only twice during the taxing year. You believe that he is not in a class with those persons who are regularly engaged in the transportation of machinery and equipment for profit.

Having done some research on this matter we are of the opinion that the farmer in this instance is liable for the additional license fee for the reason that he has taken himself out of the class of a farmer hauling his own livestock or commodities from his farm to market or return, and he is in no way using the highways in operation of his farm. We believe that he comes within the same category as those who travel the highways for profit hauling goods and commodities, or equipment, for hire. The exception to the chapter is quite clear in that it applies only to a farmer actually engaged in the ordinary business of farm operation.

ELMO T. CHRISTIANSON

Attorney General